

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1826**

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**Introduced by Assembly Member Chesbro**

*(Coauthors: Assembly Members Gordon, Skinner, Ting, and Williams)*

February 18, 2014

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An act to add Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Chesbro. Solid waste: organic waste.

(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program that requires each county and city and county to prepare and submit to the Department of Resources Recycling and Recovery a countywide integrated waste management plan. The act requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements.

This bill would require a business that generates a specified amount of organic waste per week to arrange for recycling services for that organic waste in a specified manner. The bill would decrease the amount of organic waste under which a business would be subject to those

requirements from 8 cubic yards or more during 2016 to 4 cubic yards during 2017 and 2018 and to one cubic yard or more on and after January 1, 2019.

This bill would require a business, when arranging for gardening or landscaping services, to require the organic waste generated by those services to comply with the requirements of this act.

This bill would require each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert organic waste from the businesses subject to this act, thereby imposing a state-mandated local program by imposing new duties on local government agencies. The bill would require each jurisdiction to report to the department on its progress in implementing the organic waste recycling program, and the department would be required to review whether a jurisdiction is in compliance with this act.

This bill would authorize a local government agency to charge and collect a fee from an organic waste generator to recover the local government agency's costs incurred in complying with this act.

This bill would require the department to ~~reduce barriers to siting~~ *identify and recommend actions to address permitting and siting challenges* and to encourage the continued viability of the state's organic waste processing and recycling infrastructure, in partnership with the California Environmental Protection Agency and other specified state and regional agencies. The bill also would require the department to cooperate with local jurisdictions and industry to provide assistance and incentives for increasing the feasibility of organic waste recycling.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Chapter 12.9 (commencing with Section 42649.8)
- 2 is added to Part 3 of Division 30 of the Public Resources Code, to
- 3 read:

CHAPTER 12.9. RECYCLING OF ORGANIC WASTE

42649.8. For purposes of this chapter, the following terms shall apply:

(a) “Business” means a commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling.

(b) “Commercial waste generator” means a business subject to subdivision (a) of Section 42649.2.

(c) “Organic waste” ~~includes, but is not limited to,~~ *means* food waste, green waste, landscape and pruning waste, ~~and wood waste. nonhazardous wood waste, and food-soiled paper.~~

(d) “Organic waste generator” means a business subject to subdivision (a) of Section 42649.81.

(e) “Self-hauler” means a business that hauls its own waste rather than contracting for that service.

42649.81. (a) (1) On and after January 1, 2016, a business that generates eight cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste in the manner specified in subdivision (b).

(2) On and after January 1, 2017, a business that generates four cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste in the manner specified in subdivision (b).

(3) On and after January 1, 2019, a business that generates at least one cubic yard of organic waste shall arrange for recycling services specifically for organic waste in the manner specified in subdivision (b).

(b) A business subject to subdivision (a) shall take at least one of the following actions:

(1) Source separate organic waste from other solid waste and subscribe to a basic level of organic waste recycling service that includes collection, self-hauling, or other arrangements for the collection and recycling of the organic waste, including managing it onsite or at another site owned and managed by the generator.

(2) Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.

1 (c) A business that is a property owner may require a lessee or  
2 tenant of that property to source separate their organic waste to  
3 aid in compliance with this section.

4 (d) A business generating organic waste shall arrange for the  
5 recycling services required by this section in a manner that is  
6 consistent with state and local laws and requirements, including a  
7 local ordinance or agreement, applicable to the collection, handling,  
8 or recycling of solid and organic waste.

9 (e) When arranging for gardening or landscaping services, a  
10 business subject to this section shall require the organic waste  
11 generated by those services to be managed in compliance with this  
12 chapter.

13 (f) (1) A multifamily residential dwelling that consists of fewer  
14 than five units is not a business for purposes of this chapter.

15 (2) For purposes of determining whether a business that is a  
16 multifamily dwelling is required to comply with this section, the  
17 food waste that is generated by the residents of the multifamily  
18 dwelling shall not be included in determining the amount of organic  
19 waste generated by that business and that food waste also shall not  
20 be subject to the requirements of this section.

21 42649.82. (a) In addition to the requirements of Section  
22 42649.3, on and after January 1, 2016, each jurisdiction shall  
23 implement an organic waste recycling program that is appropriate  
24 for that jurisdiction and designed specifically to divert organic  
25 waste ~~from generated by~~ businesses subject to Section 42649.81,  
26 whether or not the jurisdiction has met the requirements of Section  
27 41780.

28 (b) If a jurisdiction, as of January 1, 2016, has in place an  
29 organic waste recycling program that meets the requirements of  
30 this section, it is not required to implement a new or expanded  
31 organic waste recycling program.

32 (c) The organic waste recycling program required by this section  
33 shall be directed at organic waste generators and may include, but  
34 is not limited to, one or more of the following:

35 (1) Implementing a mandatory commercial organic waste  
36 recycling policy or ordinance that addresses organic waste  
37 recycling.

38 (2) Requiring a mandatory commercial organic waste recycling  
39 program through a franchise contract or agreement.

1 (3) Requiring organic waste to go through a source separated  
2 or mixed processing system that diverts material from disposal.

3 ~~(4) Providing exemptions, on a case-by-case basis, deemed~~  
4 ~~appropriate by the jurisdiction for reasons including, but not limited~~  
5 ~~to, zoning requirements, lack of sufficient space in multifamily~~  
6 ~~complexes or businesses to provide additional organic material~~  
7 ~~recycling bins, nongeneration of organic materials, or the current~~  
8 ~~implementation by a business of actions that result in the recycling~~  
9 ~~of a significant portion of its organic waste.~~

10 ~~(d) (1) The organic waste recycling program shall include the~~  
11 ~~education of, outreach to, and monitoring of businesses. A~~  
12 ~~jurisdiction shall notify a business if the business is not in~~  
13 ~~compliance with Section 42649.81.~~

14 ~~(2) The organic waste recycling program may include~~  
15 ~~enforcement provisions that are consistent with a jurisdiction's~~  
16 ~~authority, including a structure for fines and penalties.~~

17 ~~(3) The commercial organic waste recycling program may~~  
18 ~~include certification requirements for self-haulers.~~

19 *(d) The organic waste recycling program shall do all of the*  
20 *following:*

21 *(1) Identify all of the following:*

22 *(A) Existing organic waste recycling facilities within a*  
23 *reasonable vicinity and the capacities available for materials to*  
24 *be accepted at each facility.*

25 *(B) Facilities for potential expansion or collocation.*

26 *(C) Closed or abandoned sites that might be available for new*  
27 *organic waste recycling facilities.*

28 *(D) Other nondisposal opportunities and markets.*

29 *(E) Appropriate zoning and permit requirements for the location*  
30 *of new organic waste recycling facilities.*

31 *(F) Incentives available for developing new organic waste*  
32 *recycling facilities.*

33 *(2) Identify barriers to siting new or expanded organic waste*  
34 *recycling facilities and specify a plan to remedy those barriers*  
35 *that are within the control of the local jurisdiction.*

36 *(3) Provide for the education of, outreach to, and monitoring*  
37 *of, businesses. The program shall require the jurisdiction to notify*  
38 *a business if the business is not in compliance with Section*  
39 *42649.81.*

1     ~~(e) The organic waste recycling program may include any one~~  
2     ~~or more of the following:~~

3     ~~(1) Enforcement provisions that are consistent with the~~  
4     ~~jurisdiction's authority, including a structure for fines and~~  
5     ~~penalties.~~

6     ~~(2) Certification requirements for self-haulers.~~

7     ~~(3) Exemptions, on a case-by-case basis, from the requirements~~  
8     ~~of Section 42649.81 that are deemed appropriate by the jurisdiction~~  
9     ~~for either of the following reasons:~~

10    ~~(A) Lack of sufficient space in multifamily complexes or~~  
11    ~~businesses to provide additional organic material recycling bins.~~

12    ~~(B) The current implementation by a business of actions that~~  
13    ~~result in the recycling of a significant portion of its organic waste.~~

14    ~~(e)~~

15    ~~(f) (1) Each jurisdiction shall provide the department with~~  
16    ~~information on the number of regulated businesses that generate~~  
17    ~~organic waste and, if available, the number that are recycling~~  
18    ~~organic waste. The jurisdiction shall include this information as~~  
19    ~~part of the annual report required pursuant to Section 41821.~~

20    ~~(2) On and after August 1, 2017, in addition to the information~~  
21    ~~required by paragraph (1), each jurisdiction shall report to the~~  
22    ~~department on the progress achieved in implementing its organic~~  
23    ~~waste recycling program, including education, outreach,~~  
24    ~~identification, and monitoring, on its rationale for allowing~~  
25    ~~exemptions, and, if applicable, on enforcement efforts. The~~  
26    ~~jurisdiction shall include this information as part of the annual~~  
27    ~~report required pursuant to Section 41821.~~

28    ~~(f)~~

29    ~~(g) (1) The department shall review a jurisdiction's compliance~~  
30    ~~with this section as part of the department's review required by~~  
31    ~~Section 41825.~~

32    ~~(2) The department also may review whether a jurisdiction is~~  
33    ~~in compliance with this section at any time that the department~~  
34    ~~receives information that a jurisdiction has not implemented, or is~~  
35    ~~not making a good faith effort to implement, an organic waste~~  
36    ~~recycling program.~~

37    ~~(g)~~

38    ~~(h) During a review pursuant to subdivision—(f); (g), the~~  
39    ~~department shall determine whether the jurisdiction has made a~~  
40    ~~good faith effort to implement its selected organic waste recycling~~

1 program. For purposes of this section, “good faith effort” means  
2 all reasonable and feasible efforts by a jurisdiction to implement  
3 its organic waste recycling program. During its review, the  
4 department may include, but is not limited to, consideration of the  
5 following factors in its evaluation of a jurisdiction’s good faith  
6 effort:

7 (1) The extent to which businesses have complied with Section  
8 42649.81, including information on the amount of disposal that is  
9 being diverted from the businesses, if available, and on the number  
10 of businesses that are complying with Section 42649.81.

11 (2) The recovery rate of the organic waste from the material  
12 recovery facilities that are utilized by the businesses, all  
13 information, methods, and calculations, and any additional  
14 performance data, as requested by the department from the material  
15 recovery facilities pursuant to Section 18809.4 of Title 14 of the  
16 California Code of Regulations.

17 (3) The extent to which the jurisdiction is conducting education  
18 and outreach to businesses.

19 (4) The extent to which the jurisdiction is monitoring businesses  
20 and notifying those businesses that are not in compliance.

21 (5) The appropriateness of exemptions allowed by the  
22 jurisdiction.

23 (6) The availability of markets for collected organic waste  
24 recyclables.

25 (7) Budgetary constraints.

26 (8) In the case of a rural jurisdiction, the effects of small  
27 geographic size, low population density, or distance to markets.

28 (9) *The availability of organic waste recycling facilities and*  
29 *other nondisposal opportunities and markets.*

30 (10) *The extent to which the jurisdiction has taken steps that*  
31 *are under its control to remove barriers to siting and expanding*  
32 *organic waste recycling facilities.*

33 42649.83. (a) If a jurisdiction adds or expands an organic  
34 waste recycling program to meet the requirements of Section  
35 42649.82, the jurisdiction shall not be required to revise its source  
36 reduction and recycling element or obtain the department’s  
37 approval pursuant to Article 1 (commencing with Section 41800)  
38 of Chapter 7 of Part 2.

39 (b) If an addition or expansion of a jurisdiction’s organic waste  
40 recycling program is necessary, the jurisdiction shall include this

1 information in the annual report required pursuant to Section  
2 41821.

3 42649.84. (a) This chapter does not limit the authority of a  
4 local government agency to adopt, implement, or enforce a local  
5 organic waste recycling requirement that is more stringent or  
6 comprehensive than the requirements of this chapter.

7 (b) This chapter does not modify, limit, or abrogate in any  
8 manner any of the following:

9 (1) A franchise granted or extended by a city, county, city and  
10 county, or other local government agency.

11 (2) A contract, license, or permit to collect solid waste  
12 previously granted or extended by a city, county, city or county,  
13 or other local government agency.

14 (3) The existing right of a business to sell or donate its recyclable  
15 organic waste materials.

16 42649.85. A local government agency may charge and collect  
17 a fee from an organic waste generator to recover the local  
18 government agency's costs incurred in complying with this chapter.

19 42649.86. (a) The department shall ~~reduce barriers to siting~~  
20 *and identify and recommend actions to address, with regard to*  
21 *both state agencies and the federal government, the permitting*  
22 *and siting challenges associated with composting and anaerobic*  
23 *digestion, and to encourage the continued viability of the state's*  
24 *organic waste processing and recycling infrastructure, in*  
25 *partnership with the California Environmental Protection Agency*  
26 *and other state and regional agencies. These other state and regional*  
27 *agencies shall include, but are not limited to, the State Air*  
28 *Resources Board, the State Energy Resources Conservation and*  
29 *Development Commission, the Public Utilities Commission, the*  
30 *Department of Food and Agriculture, the State Water Resources*  
31 *Control Board, California regional water quality control boards,*  
32 *and air pollution control and air quality management districts.*

33 (b) The department shall cooperate with local government  
34 agencies and industry to provide assistance and incentives for  
35 increasing the feasibility of organic recycling by promoting  
36 processing opportunities and the development of new infrastructure  
37 of sufficient capacity to meet the needs of generators, and  
38 developing sufficient end-use markets throughout the state for the  
39 quantity of organic waste required to be diverted.



1     SEC. 2. No reimbursement is required by this act pursuant to  
2     Section 6 of Article XIII B of the California Constitution because  
3     a local agency or school district has the authority to levy service  
4     charges, fees, or assessments sufficient to pay for the program or  
5     level of service mandated by this act, within the meaning of Section  
6     17556 of the Government Code.

O